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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2018-0066]

Notice of Decision to Add Taxa of Plants for Planting that are Quarantine Pests or Hosts of Quarantine Pests to the Lists of Plants for Planting Whose Importation is Not Authorized Pending Pest Risk Analysis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our decision to add 26 taxa of plants for planting that are quarantine pests (weeds), all Myrtaceae taxa (when destined to Hawaii), and 43 other taxa of plants for planting that are hosts of 17 quarantine pests, to our lists of plants for planting whose importation is now not authorized pending pest risk analysis. A previous notice made datasheets available for public comment that listed the evidence we used to determine that the taxa are quarantine pests or hosts of quarantine pests. This notice responds to the comments we received and announces final versions of the datasheets.

DATES: The changes to the lists will be made on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

FOR FURTHER INFORMATION CONTACT: Dr. Indira Singh, Botanist, Plants for Planting Policy, IRM, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1236; Indira.Singh@usda.gov; (301) 851-2020.

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in “Subpart H—Plants for Planting” (7 CFR 319.37-1 through 319.37-23, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) prohibits or restricts the importation of plants for planting to prevent the introduction of quarantine pests into the United States.

Quarantine pest is defined in § 319.37-1 as a plant pest or noxious weed that is of potential economic importance to the United States and not yet present in the United States, or present but not widely distributed and being officially controlled.

The regulations in § 319.37-4(a) provide for the listing of plants for planting whose importation is not authorized pending pest risk analysis (NAPPRA) in order to prevent the introduction of quarantine pests into the United States. Those regulations establish two lists of taxa whose importation is NAPPRA: A list of taxa of plants for planting that are quarantine pests, and a list of taxa of plants for planting that are hosts of quarantine pests. Paragraph (b) of § 319.37-4 describes the process for adding plant taxa to the NAPPRA category.

In accordance with that process, on November 25, 2019, we published in the *Federal Register* (84 FR 64825-64826, Docket No. APHIS-2018-0066) a notice¹ that announced our determination that 26 taxa of plants for planting are quarantine pests, and that all Myrtaceae taxa (when destined to Hawaii) and 43 other taxa of plants for planting are hosts of 18² quarantine pests. The notice also made available datasheets that detail the scientific evidence we evaluated in making the determination that the taxa are quarantine pests or hosts of a quarantine pest and are being added to the NAPPRA category.

We solicited comments concerning the notice and the datasheets for 60 days ending January 24, 2020, and extended the deadline for comments until February 25, 2020. We received 132 comments from producers, importers, industry groups, conservationists, scientists,

¹ To view the notice, datasheets, and comments we received, go to www.regulations.gov and enter APHIS-2018-0066 in the Search field.

² The number of pests in the initial notice was 18, but is 17 in this notice, as the Bambusoideae taxa was subsequently removed from the quarantine pest list for reasons explained in this notice.

plant pathologists, ecologists, administrators, teachers, students, and private citizens. This notice responds to the comments we received and announces the final versions of the datasheets.

Most commenters supported our addition of Myrtaceae³ propagative material to Hawaii to the NAPPRA list because of the risk posed to important tree species, particularly ohī'a (*Metrosideros polymorpha*), which is part of the native ecosystem and provides habitat for threatened and endangered animal species. Most commenters expressed no concerns with the other taxa we proposed to add to the NAPPRA list. Commenter concerns are addressed below by topic.

NAPPRA Lists

One commenter stated that *Crocosmia*, *Pterocarya*, *Tectona*, *Cassia*, *Abies*, and many other species that APHIS designates as NAPPRA do not appear on the APHIS NAPPRA website and that the only place where plant taxa are designated as NAPPRA is in the USDA Plants for Planting Manual. The commenter suggested that APHIS make a comprehensive list of all NAPPRA plants, with pests of concern for each, so that the reasons why a previously approved plant can no longer come in are made clear to the public.

All NAPPRA plants are listed in chapter 6 of the USDA Plants for Planting Manual. The APHIS website also lists the NAPPRA weeds and hosts of quarantine pests of Round 1, Round 2, and Round 3.⁴ A 2018 final rule⁵ moved about 120 plant genera, including *Abies*, *Cassia*, *Crocosmia*, Poaceae, and all herbaceous Fabaceae from the Prohibited List in

³ Myrtaceae is a host of *Austropuccinia psidii*, which is a quarantine pest only for the State of Hawaii.

⁴ The NAPPRA lists can be viewed at https://www.aphis.usda.gov/aphis/ourfocus/planthealth/import-information/permits/plants-and-plant-products-permits/plants-for-planting/ct_nappra.

⁵ 83 FR 11845-11867, Docket No. APHIS-2008-0011.

§ 319.37-2(a) to the NAPPRA category. We intend to update our APHIS website to have a complete list of taxa restricted through NAPPRA notices.

Another commenter noted that hosts cited in a 2013 Asian longhorned beetle (ALB)/citrus longhorned beetle (CLB) Federal Order⁶ were included in a revised Federal Order but not added to the NAPPRA tables on the APHIS website.

The commenter is correct. The 2013 ALB/CLB Federal Order added *Cunninghamia*, *Pterocarya*, and *Tectona* as hosts of *Anoplophora chinensis*. We will update the Round 1 table on the APHIS website accordingly.

One commenter suggested that APHIS go to ports where non-native invasive species are likely to enter the United States and locate and remove all such pests 500 acres inland from the site. The commenter stated that this “Early Detection and Rapid Response (EDRR)” has been successful in the past.

The purpose of EDRR is to detect, identify, assess, and make a rapid response to verified new domestic infestations that are determined to be invasive. The purpose of listing plants on NAPPRA is to prevent entry of unwanted plants and pests at United States ports of entry. Domestic issues involving new invasive species are therefore beyond the scope of this NAPPRA notice.

NAPPRA Exemptions

In some cases, APHIS exempts imports of plants that are hosts of quarantine pests from NAPPRA requirements when there is significant trade of that plant between the exporting country and the United States. We allow such importation based on inspection findings indicating that the imported plants are generally pest free and from which the risk of introducing quarantine pests is low.

⁶ DA-2013-18, “Importation of Host Material of *Anoplophora chinensis* and *A. glabripennis*,” May 9, 2013.

One commenter stated that Canada should be exempt from NAPPRA requirements for imports of *Cestrum* spp. and *Gynura* spp. on the basis of existing significant trade between Canada and the United States. The commenter cited import data indicating the number of plants exported to the United States under the US/Canada Greenhouse Grown Plant Certification Program.

Based on the information cited by the commenter, we have determined that Canada meets the threshold for significant trade with the United States and is exempt from NAPPRA requirements for *Cestrum* spp. and *Gynura* spp.

Similarly, a commenter stated that Guatemala should be exempt from NAPPRA requirements for *Zea* spp. seeds based on significant trade with the United States. Another commenter provided import data for *Pennisetum glaucum* (*Cenchrus americanus*) millet seeds from Chile and requested a significant trade exemption from NAPPRA requirements for this commodity.

Based upon significant trade history documented by the United States importers and provided by the national plant protection organization of Guatemala since the publication of the notice⁷ in the *Federal Register* on June 19, 2017, we agree with the commenter and have determined that *Zea* spp. from Guatemala meets the threshold to be considered exempt from NAPPRA listing. As is the case with *Zea* spp., additional documentation from United States importers (and confirmed by APHIS data) has demonstrated significant trade history of *Pennisetum glaucum* seeds from Chile. Therefore, as stated in the notice we published on November 25, 2019,⁸ we are exempting *Pennisetum glaucum* from Chile and *Zea* spp. from Guatemala from NAPPRA restrictions.

⁷ 82 FR 27786-27792, Docket No. APHIS-2012-0076.

⁸ 84 FR 64825-64826, Docket No. APHIS-2018-0066.

One commenter asked APHIS to allow for the opportunity to have the NAPPRA lists reviewed if the industry subsequently finds and can document that a history of significant trade exists between the exporting country and the United States.

If data can be provided for significant trade between the United States and the exporting country, we will re-evaluate the NAPPRA status of the taxon for that country.

Imports of Myrtaceae Cut Flowers and Greenery into Hawaii

Many commenters stated that restrictions on Myrtaceae cut flowers and greenery are also needed for effective protection of Hawaii, and that port-of-entry inspections have not been successful in saving Hawaii from the introduction of pests and pathogens.

Some commenters noted that cut foliage can transmit plant diseases and that its importation into Hawaii constitutes a gap with respect to phytosanitary protection. One such commenter noted that cut greens are suspected to have been the original pathway for *Austropuccinia psidii* to enter Hawaii, adding that the disease has been intercepted by State inspectors on greenery shipped from Florida.

APHIS understands that cut flowers and greenery are a potential pathway for the entry of several pests and pathogens. While imported plants that pose a threat to Hawaii will be added to the NAPPRA lists, cut flowers and greenery are not regulated under “Subpart H—Plants for Planting,” but rather a different subpart, “Subpart P—Cut Flowers,” and are thus outside the scope of this notice. Separate regulatory action is required to address that pathway.

A commenter noted that we did not propose to add *Ceratocystis lukuohia* and *Ceratocystis huliohia* to NAPPRA. The commenter added that these pests are killing ohia trees in Hawaii and asked that APHIS publish a new proposal to add these species to the list.

When a plant taxon is placed on NAPPRA, its importation becomes restricted. While our determination to list Myrtaceae in NAPPRA was based on it being a host of myrtle rust (*Austropuccinia psidii*), we will base future decisions on pest risk assessments that address all quarantine pests and pathogens associated with Myrtaceae, including *Ceratocystis* spp.

Potential Economic Effects

Two commenters in the State of Hawaii expressed concern that the addition of the Myrtaceae family to the NAPPRA list would have a negative impact on their floral businesses.

One commenter, a wholesale flower importer, stated that local farms are unable to provide the volume that the industry requires, and that insufficient time exists for the floral industry in Hawaii to prepare for the proposed changes. Another commenter representing a flower bouquet business asked us to reconsider listing *Eucalyptus*, a member of the Myrtaceae family, under NAPPRA for plants destined for Hawaii.

The underlying principle of the NAPPRA lists is to safeguard U.S. agriculture with the least possible effect on trade. While the addition of taxa to the NAPPRA lists may make it more difficult for Hawaiian business to obtain Myrtaceae plants from other countries, the economic impact is outweighed by the potentially devastating effects of introducing quarantine pests into Hawaii on agriculture, forests, and endangered species. We also note that the commenters' primary concern was not with NAPPRA, but with parallel restrictions imposed by the State of Hawaii on the interstate movement of Myrtaceae plants into Hawaii from other State and territories.

Another commenter urged APHIS to consider broader bans of living plant material to and from Hawaii. With the ongoing introduction of new plants, insects, and pathogens into Hawaii, the commenter stated that the current framework and methodology for inspecting imported and exported plant materials is untenable.

We are making no changes based on the comments, as we consider the current framework for inspections adequate to manage phytosanitary risk. Taxa added to the NAPPRA list are only prohibited entry to the United States if they are determined to be quarantine pests or until a pest risk analysis is conducted that has identified appropriate mitigation measures to prevent the introduction of quarantine pests for which they are hosts.

Bambusoideae

We are removing the Poaceae subfamily Bambusoideae taxa from the NAPPRA quarantine pest list as the subfamily is already regulated under NAPPRA for *Ustilago sharaiana* and other quarantine pests.

General Comments

One commenter noted that some of the plant taxa included in the proposal that APHIS names as being vulnerable to various pests or pathogens are invasive in the United States, namely *Syzygium jambos*, Bambusoideae, and *Euonymus*, and asked if this is an appropriate priority.

The commenter's concern about *Syzygium jambos* and *Euonymus* being invasive has been addressed through restricting their importation into the United States by listing them as NAPPRA. Bambusoideae has been deleted from this notice as it is already regulated under NAPPRA.

A commenter stated that the NAPPRA listing of Elm mottle virus (EMoV) does not clarify whether the purpose is to protect North American elm species or other hosts, such as hydrangea and lilac.

The listing of EMoV is for all hosts, including lilac (*Syringa*), which is listed in this notice, and *Hydrangea*, which is already on the NAPPRA list.

Comment period

A commenter needed more time to develop a response and requested that we extend the comment period.

We extended the comment period for an additional 30 days.

Therefore, in accordance with the regulations in § 319.37-4, we are adding 26 taxa of plants for planting that are quarantine pests (weeds), and all Myrtaceae taxa (when destined to

Hawaii) and 43 other taxa of plants for planting that are hosts of 17 quarantine pests whose importation is now NAPPRA. We are exempting *Zea* spp. from Guatemala, *Pennisetum glaucum* (syn. *Cenchrus americanus*) from Chile, and *Gynura* spp. and *Cestrum* spp. from Canada from the NAPPRA listing. We are also adding *Jasminum* spp. plants for planting from South Africa to NAPPRA, and *Catharanthus* spp. plants for planting from Canada to NAPPRA.

A complete list of taxa added to the NAPPRA list and the restrictions placed on their importation can be found on the APHIS website at https://www.aphis.usda.gov/aphis/ourfocus/planthealth/import-information/permits/plants-and-plant-products-permits/plants-for-planting/ct_nappra.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

Authority: 7 U.S.C. 1633 and 7701-7772 and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 27th day of May 2021.

Mark Davidson,

Acting Administrator,

Animal and Plant Health Inspection Service.